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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,684	11/19/2001	Corey M. Grove	DAM 557-01	5881
24211	7590	06/24/2008	EXAMINER	
US ARMY SOLDIER AND BIOLOGICAL CHEMICAL COMMAND OFFICE OF THE CHIEF COUNSEL/IP TEAM (BLDG E4435) 5183 BLACKHAWK ROAD APG, MD 21010-5424				MENDOZA, MICHAEL G
ART UNIT		PAPER NUMBER		
3734				
MAIL DATE		DELIVERY MODE		
06/24/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/992,684	GROVE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	MICHAEL G. MENDOZA	3734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 9/15/2005.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-7, 10-12 and 17-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-7, 10-12 and 17-2 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 30 September 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 15 September 2005 have been fully considered but they are not persuasive. The applicant argues that the system taught by Gallet and the head harness of Vogliano could not work together. The examiner disagrees. As shown in figure 8 of Vogliano, the harness has an opening 11 that is large enough to accommodate the vision port and still have a gap between the opening and the outer periphery of the port.
2. As shown in figure 1 of Gallet, the arm 25 is attached the fitting 26 that is on the periphery of the frame 27 of the vision port. The harness of Vogliano is fully capable of being fitted over the mask shell of Gallet without interfering with the arm 25 that attaches the mask to the helmet.
3. The drawings were received on 30 September 2005. These drawings are accepted by the examiner.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. 1, 3, 4, 6, 7, 10, 11, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallet 4817596 in view of Vogliano 5191882.

6. Gallet teaches a modular helmet-mask assembly which comprises: a helmet comprising an impact resistant material; a face protection assembly comprising: a face protection shell; a vision port; a flexible nosecup (see figure) comprising a breathe-through airflow assembly and a filter unit (col. 1, lines 10-13); a flexible face seal (col. 4, lines 33-37); an adjustable head harness (see figure); a transparent, impact resistant lens rotatably attached at front part of the helmet (col. 5, lines 14-22); a transparent, impact resistant lens fixed to the vision port; wherein the impact resistant lens comprises polycarbonate, polyurethane, or combination thereof (col. 5, lines 21-22); wherein the face seal and nosecup comprise an elastic material (col. 4, lines 33-37); and wherein the filter unit comprises a filter element comprising a material capable of filtering chemical vapors and biological aerosols (col. 1, lines 10-13). It should be noted that Gallet fails to specifically teach wherein the face protection shell comprises an impact resistant material. However it would have been obvious to one of ordinary skill in the art at the time the invention was made to use impact resistant material in situations where the mask could be damaged (firefighting/police raids) to prevent breakage. It should also be noted that Gallet fails to teach the adjustable head harness is attached at a surface of the shell or the face seal which is capable of engaging the back of a user's head.

7. Vogliano teaches a apparatus with a common adjustable head harness attached at a surface of the shell or the face seal which is capable of engaging the back of a user's head. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use straps in view of Vogliano with the modular

helmet-mask assembly of Gallet to allow the face protection assembly to be worn without the use of the helmet (see abstract).

8. As to claim 11, Gallet/Vogliano discloses the claimed invention except for the filter element comprises a carbon filter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a carbon filter since it was known in that carbon filters are effective for removing harmful gases.

9. Claims 2, 12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallet/Vogliano as applied to claims 1, 2, and 17 above, and further in view of Lane 5555569.

10. Gallet/Vogliano teaches the modular helmet-mask assembly of claim 1. It should be noted that Gallet/Vogliano fails to teach a position adjustable pad attached at rear part of the helmet, or a tightening adjustment knob/lever.

11. Lane teaches an assembly with a common pad and knob for securing a helmet on a wear's head (see figures). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the pad and knob for allowing adjustment of the fit of the helmet when the helmet is donned (col. 4, lines 47-56).

12. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gallet/Vogliano in view of Epperson et al. 6279172.

13. Gallet/Vogliano teaches the helmet-assembly of claim 1. It should be noted that Gallet/Vogliano fails to specifically teach the impact resistant shell material comprises graphite, fiberglass, or combinations thereof.

14. Epperson et al. teaches an assembly with common impact resistant material. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the graphite of Epperson et al. for its strong and lightweight properties (col. 3, lines 28-29).

***Conclusion***

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL G. MENDOZA whose telephone number is (571)272-4698. The examiner can normally be reached on Mon.-Fri. 9:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. G. M./  
Examiner, Art Unit 3734

/Todd E Manahan/  
Supervisory Patent Examiner, Art Unit 3731